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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JASMINE SMITH and TAWNEYA HOUSER,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

GLAXOSMITHKLINE, PLC and
GLAXOSMITHKLINE CONSUMER
HEALTHCARE,

Defendants.

Case No.: 4:21-cv-09390-JST

**STIPULATION TO SUBSTITUTE
GLAXOSMITHKLINE
CONSUMER HEALTHCARE
HOLDINGS (US) LLC FOR AND IN
PLACE OF DEFENDANTS
GLAXOSMITHKLINE PLC AND
GLAXOSMITHKLINE CONSUMER
HEALTHCARE**

Judge: Judge Jon S. Tigar
Action Filed: December 3, 2021

Pursuant to Federal Rule of Civil Procedure 25(c), Plaintiffs and Defendant GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, (collectively, the “Parties”),¹ by and through their respective attorneys, agree and stipulate to substituting GlaxoSmithKline Consumer Healthcare Holdings (US) LLC into the case as the Defendant in place of GlaxoSmithKline plc, which should be dismissed from the case and removed from the caption. Further, GlaxoSmithKline Consumer Healthcare Holdings (US) LLC is the proper legal entity and name of the defendant currently identified as GlaxoSmithKline Consumer Healthcare. Consequently, GlaxoSmithKline Consumer Healthcare Holdings (US) LLC should be inserted in place of GlaxoSmithKline Consumer Healthcare for all purposes in this action, including the Complaint. In support of this joint motion, the Parties state the following:

1. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC is the legal entity responsible for defending against all claims and for all liabilities related to the Abreva® product at issue in this case.

2. GlaxoSmithKline Consumer Healthcare, referred to in the Complaint, is not the proper legal name of GlaxoSmithKline Consumer Healthcare Holdings (US) LLC.

3. GlaxoSmithKline plc is a publicly traded limited company organized under the laws of England, which is the ultimate parent of a percentage of GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, and is not a proper defendant in this case.

4. GlaxoSmithKline plc is currently named as a defendant on all pleadings, motions and other filings in this case.

5. The primary basis for deciding whether to substitute a party under Federal Rule of Civil Procedure 25(c) is whether the substitution would “facilitate the conduct of the litigation.” *Andrew Smith Co. v. Paul’s Pak, Inc.*, No. C-08-04802 RMW, 2009 WL 1423536, at *1 (N.D. Cal. May 20, 2009) (quoting *In re Bernal*, 207 F.3d 595, 598 (9th. Cir. 2000)); *see also Comm’ns Imp. Exp., S.A. v. Republic of Congo*, 118 F. Supp. 3d 220, 231 (D.D.C. 2015) (quoting *Citibank v. Grupo*

¹ GlaxoSmithKline plc does not join in this stipulation because: (1) it has not been properly served in this action; and (2) even if it had been properly served, personal jurisdiction would be lacking because it is a foreign holding company organized and existing under the laws of England that has no connection to or dealings with California.

1 *Cupney, Inc.*, 382 F.3d 29, 32 (1st Cir. 2004)); *Tesseron, Ltd. v. Oce N.V.*, 110 F. Supp. 3d 1255,
2 1257 (M.D. Fla. 2015) (“The purpose of Rule 25(c) is to ensure that after litigation commences, the
3 Court, at its discretion, can proceed in an efficient manner with the real parties in interest.”); *see also*
4 *Luxliner P.L. Export Co. v. RDI/Luxliner, Inc.*, 13 F.3d 69, 71 (3d Cir. 1993) (Rule 25 does not alter
5 the substantive rights of parties, but is designed to “facilitate the conduct of the case, and is within
6 the court’s discretion.”).

7 6. The Parties have agreed that the substitution of GlaxoSmithKline Consumer
8 Healthcare Holdings (US) LLC for GlaxoSmithKline plc as the defendant in this case will facilitate
9 the conduct of the litigation and increase efficiency and economy by clarifying the proper defendant
10 and minimizing any confusion as to the proper defendant in this case.

11 WHEREFORE, pursuant to the foregoing, the Parties respectfully request that the Court So
12 Order this stipulation, providing that:

13 (1) GlaxoSmithKline Consumer Healthcare Holdings (US) LLC be substituted in as
14 Defendant for and in place of GlaxoSmithKline plc and that GlaxoSmithKline plc be dismissed from
15 this case;

16 (2) The reference to GSK Consumer Healthcare shall be dropped from the caption and
17 GlaxoSmithKline Consumer Healthcare Holdings (US) LLC shall be the sole defendant in the case;

18 (3) For any pleadings, motions and other filings, discovery, and orders, filed, served, or
19 entered on or before the substitution of GlaxoSmithKline Consumer Healthcare Holdings (US) LLC,
20 GlaxoSmithKline Consumer Healthcare Holdings (US) LLC shall be considered the defendant as
21 though it had been so named at the time of the filing, service, or entry of such documents. For all
22 pleadings, motions, filings, discovery, and orders filed, served, or entered after the substitution of
23 GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, GlaxoSmithKline Consumer
24 Healthcare Holdings (US) LLC shall be the sole named defendant in the case; and

25 (4) The Clerk is directed to change the docket and case caption to reflect
26 GlaxoSmithKline Consumer Healthcare Holdings (US) LLC as the sole defendant in the case and
27 remove references to GlaxoSmithKline plc and GlaxoSmithKline Consumer Healthcare.
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1 Dated: March 22, 2022

Respectfully submitted,

2 **BURSOR & FISHER, P.A.**

3
4 By: /s/ L. Timothy Fisher
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10 *Attorneys for Plaintiffs*

11 Dated: March 22, 2022

Respectfully submitted,

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27 *Attorneys for Defendant GlaxoSmithKline*
28 *Consumer Healthcare*

SIGNATURE ATTESTATION

Pursuant to Civil L.R. 5-1(h)(3), the filer of this document attests that all signatories have concurred in its filing.

Dated: March 22, 2022

By: /s/ L. Timothy Fisher
L. Timothy Fisher

[PROPOSED] ORDER

The Parties Stipulation is approved. Accordingly:

(1) GlaxoSmithKline Consumer Healthcare Holdings (US) LLC is be substituted in as Defendant for and in place of GlaxoSmithKline plc and that GlaxoSmithKline plc be dismissed from this case;

(2) The reference to GSK Consumer Healthcare shall be dropped from the caption and GlaxoSmithKline Consumer Healthcare Holdings (US) LLC shall be the sole defendant in the case;

(3) For any pleadings, motions and other filings, discovery, and orders, filed, served, or entered on or before the substitution of GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, GlaxoSmithKline Consumer Healthcare Holdings (US) LLC shall be considered the defendant as though it had been so named at the time of the filing, service, or entry of such documents. For all pleadings, motions, filings, discovery, and orders filed, served, or entered after the substitution of GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, GlaxoSmithKline Consumer Healthcare Holdings (US) LLC shall be the sole named defendant in the case; and

(4) The Clerk is directed to change the docket and case caption to reflect GlaxoSmithKline Consumer Healthcare Holdings (US) LLC as the sole defendant in the case and remove references to GlaxoSmithKline plc and GlaxoSmithKline Consumer Healthcare.

IT IS SO ORDERED.

Dated:

The Honorable Jon S. Tigar
United States District Judge